

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA *

vs.

* CRIMINAL NO. MJG-11-0095

JOHN I. FRANKLIN, Jr., et al. *

* * * * *

MEMORANDUM AND ORDER RE: SEVERANCE

As discussed on the record of proceedings held December 22, 2011, it is possible that there could be a joint trial of Defendant Franklin together with Defendant Frazier and/or Defendant Williams.

Government counsel has represented that if there were a joint trial, the statements made by Defendants Franklin and Frazier would be redacted or otherwise handled¹ to eliminate any Bruton issues. If this can be done - and it presently appears that it can be - there could be a joint trial. The Court will, therefore, proceed on the assumption - subject to reconsideration - that there will be no Bruton impediments to a joint trial. However, there are circumstances that may moot the severance issue.

The trial of Defendant Franklin shall commence with jury selection during the week of January 29, 2012 and proceed on February 6, 2012. Counsel for Defendant Frazier has a

¹ For example, offered only if the Defendant making the statement testified at trial.

previously scheduled trial that, if it proceeds as planned, will conflict with the trial of the instant case. In that event, Defendant Franklin will be tried alone (or with Defendant Williams) and there would be a de facto severance as to Defendant Frazier.

Defendant Williams has pleaded guilty but has a pending motion seeking to withdraw his plea. If the motion is denied, there would be no trial of Defendant Williams, mootting any severance issue. If the motion is granted, Defendant Williams would be tried together with Defendant Franklin.

Accordingly:

1. Prior Orders granting severance herein are hereby RESCINDED.
2. Absent a Bruton issue, Defendant Frazier and/or Defendant Williams shall be tried together with Defendant Franklin, subject to Defendant Frazier's counsel's scheduling conflict and the ruling on Defendant Williams's pending motion to withdraw his guilty plea.

SO ORDERED, this Friday, December 30, 2011.

/s/
Marvin J. Garbis
United States District Judge